In the High Court of Punjab and Haryana at Chandigarh

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Civil Writ Petition No.2998 of 2007

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Date of decision: 27.2.2007

Harmesh Lal and others

... Petitioners

v.

State of Punjab and others

... Respondents

....

Coram Hon'ble Mr. Justice S.S. Nijjar
Hon'ble Mr. Justice S.S. Saron

Present: Mr. R.K. Arora, Advocate for the petitioners.

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The petitioners were granted higher pay scale of JST Teachers which was meant for the Masters/Mistresses. Accordingly, they were adjusted on the post of Masters. Their grievance in this petition under Articles 226/227 of the Constitution of India is that similarly situated employes like them who were granted JST Grade equivalent to the grade of Masters/Mistresses on acquiring the higher qualification of BA-I/TDC-I have been assigned seniority in the cadre of Masters w.e.f. the date they were granted JST grades. However, the same benefit is being denied to the

petitioners despite their making several requests and representations in this regard. Accordingly, they pray for quashing the order dated 2.2.2005 (Annexure-P.9) passed by the Director, Public Instructions (SE), Punjab (respondent No.2) whereby their claim for granting them appropriate seniority in the Masters/Mistresses cadre from the date of the grant of JST grade has been declined.

Learned counsel appearing for the petitioners contends that respondents No.6 and 7 have been granted seniority from the date they were granted JST grades whereas the same is denied to the petitioners. It is contended that the petitioners are also entitled to the grant of seniority from the date of grant of JST grade meant for Masters/Mistresses.

We have given our thoughtful consideration to the matter. A perusal of the impugned order dated 2.2.2005 (Annexure-P.9) shows that the case of the petitioners for the grant of seniority from the date of acquiring higher qualifications is based on the instructions of the Punjab Government dated 23.7.1957. In terms of the said instructions higher (JST) grade was given to the petitioners as per their qualifications. There is no provision in the instructions for the grant of seniority from the date of grant of the JST grade. Learned counsel for the petitioners has failed to show any statutory rules or instructions on the basis of which the petitioners would be entitled to seniority from the date of their acquiring the higher (JST) grade. The claim of the petitioners is only based on the fact that respondents No.6 and 7 have been granted seniority on their acquiring JST grade. In Chandigarh Administration and another v. Jagjit Singh and another, AIR 1995 SC 705, it was held as follows:-

> "Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order."

Therefore, we are of the considered opinion that no legal right of the petitioners has been infringed. Merely, because the benefit of seniority has been granted to some other individual for which no statutory right is shown would not create a legal right in favour of the petitioners to claim a writ in the nature of mandamus. The Court would not direct the authority to pass an order without a right.

Dismissed.

(S.S. Nijjar)
Judge

February 27, 2007.

(S.S. Saron)
Judge

hsp